

Abraham Lincoln papers

Abraham Lincoln, Opinion on West Virginia Statehood [Draft]¹, [December 31, 1862]

1 Concerned about the constitutionality and, indeed, the expediency of a part of a state seceding from an existing state, on December 23, 1862 Lincoln requested his cabinet to submit opinions on whether or not West Virginia should be admitted into the Union as a state. Three of the cabinet favored West Virginia's admission (Seward, Stanton and Chase); three opposed it (Blair, Bates and Welles). To clarify the matter for himself, since his cabinet was equally divided, Lincoln also wrote the opinion on the case that follows, and signed the statehood bill on December 31. For cabinet members' opinions, see Edwin M. Stanton to Lincoln, December 26, 1862; Montgomery Blair to Lincoln, December 26, 1862; William H. Seward to Lincoln, December 26, December 30, 1862; Edward Bates to Lincoln, December 27, 1862; Salmon P. Chase to Lincoln, December 29, 1862; and Gideon Welles to Lincoln, December 29, 1862.

The consent of the Legislature of Virginia is constitutionally necessary to the bill for the admission of West-Virginia becoming a law. A body claiming to be such Legislature has given its consent. We can not well deny that it is such, unless we do so upon the outside knowledge that the body was chosen at elections, in which a majority of the qualified voters of Virginia did not participate. But it is a universal practice in the popular elections in all these states, to give no legal consideration whatever to those who do not choose to vote, as against the effect of the votes of those, who do choose to vote. Hence it is not the qualified voters, but the qualified voters, who choose to vote, that constitute the political power of the State. Much less then to non-voters, should any consideration be given to those who did not vote, in this case : because it is also matter of outside knowledge, that they were not merely neglectful of their rights under, and duty to, this government, but were also engaged in open rebellion against it. Doubtless among these non-voters were some Union men whose voices were smothered by the more numerous secessionists; but we know too little of their number to assign them any appreciable value.² Can this government stand, if it indulges Constitutional constructions by which men in open rebellion against it, are to be accounted, man for man, the equals of those who maintain their loyalty to it? Are they to be accounted even better citizens, and more worthy of consideration, than those who merely neglect to vote? If so, their treason against the Constitution, enhances their Constitutional value! Without braving these absurd conclusions, we can not deny that the body which consents to the admission of West-Virginia, is the Legislature of Virginia. I do not think the plural form of the words "Legislatures" and "States" in the phrase of the constitution "without the consent of the Legislatures of the States concerned&c" has any reference to the new State concerned. That plural form sprang from the contemplation of two

or more old States contributing to form a new one. The idea that the new state was in danger of being admitted without its own consent, was not provided against, because it was not thought of, as I conceive.³ It is said, the devil takes care of his own— Much more should a good spirit — the spirit of the Constitution and the Union — take care of its own— I think it can not do less, and live.

2 The preceding sentence was written in the margin, its place being indicated by an asterisk.

3 The preceding three sentences were written in the margin, their place being indicated by an asterisk.

But is the admission into the Union, of West-Virginia, expedient. This, in my general view, is more a question for Congress, than for the Executive. Still I do not evade it. More than on anything else, it depends on whether the admission or rejection of the new State would under all the circumstances tend the more strongly to the restoration of the national authority throughout the Union. That which helps most in this direction is the most expedient at this time. Doubtless those in remaining Virginia would return to the Union, so to speak, less reluctantly without the division of the old state than with it; but I think we could not save as much in this quarter by rejecting the new state, as we should lose by it in the new. West-Virginia. We can scarcely dispense with the aid of West-Virginia in this struggle; much less can we afford to have her against us, in Congress and in the field. Her brave and good men regard her admission into the Union as a matter of life and death. They have been true to the Union under very severe trials. We have so acted as to justify their hopes; and we can not fully retain their confidence, and co-operation, if we seem to break faith with them. In fact, they could not do so much for us, if they would.

Again, the admission of the new State, turns that much slave soil to free; and thus, is a certain, and irrevocable encroachment upon the cause of the rebellion.

The division of a State is dreaded as a precedent. But a measure made expedient by a war, is no precedent for times of peace. It is said that the admission of West-Virginia, is secession, and tolerated only because it is our secession. Well, if we call it by that name, there is still difference enough between secession against the Constitution, and secession in favor of the Constitution.

I believe the admission of West-Virginia into the Union is expedient.

[Endorsed on Envelope by Lincoln :]

Opinions on West-Virginia.